



OCA FILE LEG Page 18

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCA 2632-89

July 26, 1989

SPECIALLEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer -

Department of Justice (Perkins 633-2113)	217
Department of Defense (Brick 697-1305)	325
Department of Energy (Rabben 586-6718)	209
National Security Council (Hughes x3723)	249
Department of Education (Kristy 732-2670)	207
Department of State (Bachrach 647-4463)	225
General Services Administration (Vicchiolla 523-3956)	237
Central Intelligence Agency	258
Office of Personnel Management (Woodruff 632-5524)	331
Department of the Treasury (Carro 566-8523)	228

SUBJECT: S. 1324, "Intelligence Authorization Act for FYs 1990 and 1991" as reported by the Senate Select Committee on Intelligence. Your comments are needed in order to prepare the Statement of Administration Policy on this bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than FRIDAY, AUGUST 11, 1989.

Questions should be referred to ANNETTE ROONEY/SUE TRAU (395-7300), the legislative analyst in this office.

Ronald K. Peterson
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Enclosure

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SPECIAL

101ST CONGRESS
1ST SESSION

S. 1324

[Report No. 101-78]

STAT

To authorize appropriations for fiscal years 1990 and 1991 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 14 (legislative day, JANUARY 8), 1989

Mr. BOREN, from the Select Committee on Intelligence, reported the following original bill; which was read twice and referred jointly to the Committees on Armed Services, the Judiciary, and Foreign Relations for the thirty-day period provided in section 3(b) of Senate Resolution 400, Ninety-fourth Congress, provided that the Committee on the Judiciary be restricted to consideration of title VI, and the Committee on Foreign Relations be restricted to consideration of sections 602 and 603, provided that if any of said committee fails to report said bill within the thirty-day time limit, such committee shall be automatically discharged from further consideration of said bill in accordance with section 3(b) of Senate Resolution 400, Ninety-fourth Congress

A BILL

To authorize appropriations for fiscal years 1990 and 1991 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*

1 That this Act may be cited as the "Intelligence Authoriza-
2 tion Act for Fiscal Years 1990 and 1991".

3 **TITLE I—INTELLIGENCE ACTIVITIES**

4 **AUTHORIZATION OF APPROPRIATIONS**

5 **SEC. 101.** Funds are hereby authorized to be appropri-
6 ated for fiscal years 1990 and 1991 for the conduct of the
7 intelligence activities of the following elements of the United
8 States Government:

- 9 (1) The Central Intelligence Agency.
10 (2) The Department of Defense.
11 (3) The Defense Intelligence Agency.
12 (4) The National Security Agency.
13 (5) The Department of the Army, the Department
14 of Navy, and the Department of the Air Force.
15 (6) The Department of State.
16 (7) The Department of the Treasury.
17 (8) The Department of Energy.
18 (9) The Federal Bureau of Investigation.

19 **CLASSIFIED SCHEDULE OF AUTHORIZATIONS**

20 **SEC. 102.** The amounts authorized to be appropriated
21 under section 101, and the authorized personnel ceilings as of
22 September 30, 1990 and 1991, for the conduct of the intelli-
23 gence activities of the elements listed in such section, are
24 those specified in the classified Schedule of Authorizations
25 prepared by the Committee of Conference to accompany
26 () of the One Hundred First Congress.

1 That Schedule of Authorizations shall be made available
2 to the Committees on Appropriations of the Senate and
3 House of Representatives and to the President. The Presi-
4 dent shall provide for suitable distribution of the Schedule, or
5 of appropriate portions of the Schedule, within the executive
6 branch.

7 PERSONNEL CEILING ADJUSTMENTS

8 SEC. 103. The Director of Central Intelligence may au-
9 thorize employment of civilian personnel in excess of the
10 numbers authorized for fiscal years 1990 and 1991 under
11 sections 102 and 202 of this Act when he determines that
12 such action is necessary to the performance of important in-
13 telligence functions, except that such number may not, for
14 any element of the Intelligence Community, exceed 2 per
15 centum of the number of civilian personnel authorized under
16 such sections for such element. The Director of Central Intel-
17 ligence shall promptly notify the Permanent Select Commit-
18 tee on Intelligence of the House of Representatives and the
19 Select Committee on Intelligence of the Senate whenever he
20 exercises the authority granted by this section.

21 LIMITATION ON USE OF CIA RESERVE FOR

22 CONTINGENCIES

23 SEC. 104. Section 502 of the National Security Act of
24 1947 (50 U.S.C. 414) is amended by adding after the semi-
25 colon and before the word "or" at the end of subsection
26 (a)(2): "Provided, however, That no funds from the Reserve

1 for Contingencies may be obligated or expended for any oper-
2 ation or activity for which the approval of the President is
3 required by section 662 of the Foreign Assistance Act of
4 1961 (22 U.S.C. 2422), or for any significant change to such
5 operation or activity, for which prior notice has been with-
6 held;".

7 TITLE II—INTELLIGENCE COMMUNITY STAFF

8 AUTHORIZATION OF APPROPRIATIONS

9 SEC. 201. There is authorized to be appropriated for the
10 Intelligence Community Staff for fiscal year 1990 the sum of
11 \$25,068,000 and for fiscal year 1991 the sum of
12 \$24,931,000, including \$4,500,000 for the Security Evalua-
13 tion Office.

14 AUTHORIZATION OF PERSONNEL END STRENGTH

15 SEC. 202. (a) The Intelligence Community Staff is au-
16 thorized two hundred-thirty full-time personnel as of Septem-
17 ber 30, 1990 and two hundred and thirty full-time personnel
18 as of September 30, 1991. Such personnel of the Intelligence
19 Community Staff may be permanent employees of the Intelli-
20 gence Community Staff or personnel detailed from other ele-
21 ments of the United States Government.

22 (b) During fiscal years 1990 and 1991, personnel of the
23 Intelligence Community Staff shall be selected so as to pro-
24 vide appropriate representation from elements of the United
25 States Government engaged in intelligence activities.

1 (c) During fiscal years 1990 and 1991, any officer or
2 employee of the United States or a member of the Armed
3 Forces who is detailed to the Intelligence Community Staff
4 from another element of the United States Government shall
5 be detailed on a reimbursable basis, except that any such
6 officer, employee or member may be detailed on a nonreim-
7 bursable basis for a period of less than one year for the per-
8 formance of temporary functions as required by the Director
9 of Central Intelligence.

10 INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN
11 SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

12 SEC. 203. During fiscal years 1990 and 1991, activities
13 and personnel of the Intelligence Community Staff shall be
14 subject to the provisions of the National Security Act of 1947
15 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency
16 Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as
17 activities and personnel of the Central Intelligence Agency.

18 **TITLE III—CENTRAL INTELLIGENCE AGENCY**
19 **RETIREMENT AND DISABILITY SYSTEM**

20 **AUTHORIZATION OF APPROPRIATIONS**

21 SEC. 301. There is authorized to be appropriated for the
22 Central Intelligence Agency Retirement and Disability Fund
23 for fiscal year 1990 the sum of \$154,900,000 and for fiscal
24 year 1991 the sum of \$164,600,000.

1 **TITLE IV—CENTRAL INTELLIGENCE AGENCY**
2 **ADMINISTRATIVE PROVISIONS**

3 **ELIGIBILITY FOR ANNUITY**

4 **SEC. 401. (a)** The Central Intelligence Agency Retire-
5 ment Act of 1964 for Certain Employees, as amended, is
6 amended—

7 (1) by redesignating section 236 as section 237;

8 and

9 (2) by inserting before the heading "Limitation on
10 Number of Retirements," the following:

11 **"ELIGIBILITY FOR ANNUITY**

12 **"SEC. 236.** A participant must complete, within the last
13 two years before any separation from service, except a sepa-
14 ration because of death or disability, at least one year of
15 creditable civilian service during which he or she is subject to
16 this title before he or she or his or her survivors are eligible
17 for an annuity under this title based on the separation. If a
18 participant, except a participant separated from the service
19 because of death or disability, fails to meet the service re-
20 quirement of the preceding sentence, the amounts deducted
21 from his or her pay during the period for which no eligibility
22 is established based on the separation shall be returned to
23 him or her on the separation. Failure to meet this service
24 requirement does not deprive the individual or his or her sur-
25 vivors of annuity rights which attached on a previous separa-
26 tion."

1 "SPECIAL RULES FOR DISABILITY RETIREMENT AND
2 DEATH IN SERVICE BENEFITS WITH RESPECT TO
3 CERTAIN EMPLOYEES

4 "SEC. 18. (a) Notwithstanding any other provision of
5 law, an officer or employee of the Central Intelligence
6 Agency subject to retirement system coverage under sub-
7 chapter III of chapter 83 of title 5, United States Code,
8 who—

9 "(i) has five years of civilian service credit toward
10 retirement under such subchapter III of chapter 83,
11 title 5, United States Code;

12 "(ii) has not been designated under section 203 of
13 the Central Intelligence Agency Retirement Act of
14 1964 for Certain Employees, as amended (50 U.S.C.
15 403 note), as a participant in the Central Intelligence
16 Agency Retirement and Disability System;

17 "(iii) has become disabled during a period of as-
18 signment to the performance of duties that are qualify-
19 ing toward such designation under section 203; and

20 "(iv) satisfies the requirements for disability retire-
21 ment under section 8337 of title 5, United States
22 Code—

23 shall, upon his own application or upon order of the Director,
24 be retired on an annuity computed in accordance with the
25 rules prescribed in such section 231, in lieu of an annuity

1 computed as provided by section 8337 of title 5, United
2 States Code.

3 “(b) Notwithstanding any other provision of law, in the
4 case of an officer or employee of the Central Intelligence
5 Agency subject to retirement system coverage under sub-
6 chapter III of chapter 83, title 5, United States Code, who—

7 “(i) has at least eighteen months of civilian serv-
8 ice credit toward retirement under such subchapter III
9 of chapter 83, title 5, United States Code;

10 “(ii) has not been designated under section 203 of
11 the Central Intelligence Agency Retirement Act of
12 1964 for Certain Employees, as amended (50 U.S.C.
13 403 note), as a participant in the Central Intelligence
14 Agency Retirement and Disability System;

15 “(iii) prior to separation or retirement from the
16 Agency, dies during a period of assignment to the per-
17 formance of duties that are qualifying toward such des-
18 ignation under such section 203; and

19 “(iv) is survived by a widow or widower, former
20 spouse, and/or a child or children as defined in section
21 204 and section 232 of the Central Intelligence
22 Agency Retirement Act of 1964 for Certain Employ-
23 ees, who would otherwise be entitled to an annuity
24 under section 8341 of title 5, United States Code—

1 such widow or widower, former spouse, and/or child or chil-
2 dren of such officer or employee shall be entitled to an annu-
3 ity computed in accordance with such section 232, in lieu of
4 an annuity computed in accordance with section 8341 of title
5 5, United States Code.

6 “(c) Notwithstanding any other provision of law, an offi-
7 cer or employee of the Central Intelligence Agency subject to
8 retirement system coverage under chapter 84 of title 5,
9 United States Code, who—

10 “(i) has completed at least eighteen months of ci-
11 vilian service creditable under section 8411 of title 5,
12 United States Code;

13 “(ii) has not been designated pursuant to section
14 302(a) of the Central Intelligence Agency Retirement
15 Act of 1964 for Certain Employees, as amended (50
16 U.S.C. 403 note);

17 “(iii) has become disabled during a period of as-
18 signment to the performance of duties that are qualify-
19 ing toward such designation pursuant to such section;
20 and

21 “(iv) satisfies the requirements for disability retire-
22 ment under subchapter V of chapter 84, title 5, United
23 States Code—

24 shall, on the officer's or employee's own application or an
25 application by the Director, be retired on an annuity comput-

1 ed as if the officer or employee, prior to becoming disabled,
2 had been designated pursuant to section 302(a) of the Central
3 Intelligence Agency Retirement Act of 1964 for Certain Em-
4 ployees, as amended (50 U.S.C. 403 note), in lieu of the
5 annuity amount that would otherwise be computed under
6 subchapter V of chapter 84 of title 5, United States Code.

7 "(d) Notwithstanding any other provision of law, in the
8 case of an officer or employee of the Central Intelligence
9 Agency subject to retirement system coverage under chapter
10 84 of title 5, United States Code, who—

11 "(i) has at least eighteen months of civilian serv-
12 ice creditable under section 8411 of title 5, United
13 States Code;

14 "(ii) has not been designated pursuant to section
15 302(a) of the Central Intelligence Agency Retirement
16 Act of 1964 for Certain Employees, as amended (50
17 U.S.C. 403 note);

18 "(iii) prior to separation or retirement from the
19 Agency, dies during a period of assignment to the per-
20 formance of duties that are qualifying toward such des-
21 ignation pursuant to such section; and

22 "(iv) is survived by a widow or widower, former
23 spouse, and/or child or children as defined in section
24 8441 of title 5, United States Code, who would be en-
25 titled to a lump-sum survivor benefit, a survivor annu-

1 ity and/or if applicable, a supplementary annuity,
2 under subchapter IV of chapter 84, title 5, United
3 States Code—
4 the survivor benefit or benefits of such widow or widower,
5 former spouse, and/or child or children shall be computed as
6 if the officer or employee, prior to death, had been designated
7 pursuant to section 302(a) of the Central Intelligence Agency
8 Retirement Act of 1964 for Certain Employees, as amended
9 (50 U.S.C. 403 note), in lieu of the benefit amount or
10 amounts that would otherwise be computed pursuant to sub-
11 chapter IV of chapter 84, title 5, United States Code.

12 “(e)(1) The annuities provided under subsections (a) and
13 (b) of this section shall be deemed to be annuities under chap-
14 ter 83 of title 5, United States Code, for purposes of the
15 other provisions of such chapter and other laws (including the
16 Internal Revenue Code of 1986) relating to such annuities,
17 and shall be payable from the Civil Service Retirement and
18 Disability Fund established under section 8348 of such title.

19 “(2) The annuities and/or other benefits provided under
20 subsections (c) and (d) of this section shall be deemed to be
21 annuities and/or benefits under chapter 84 of title 5, United
22 States Code, for purposes of the other provisions of such
23 chapter and other laws (including the Internal Revenue Code
24 of 1986) relating to such annuities and/or benefits, and shall
25 be payable from the Civil Service Retirement and Disability

1 Fund established pursuant to section 8348 of title 5, United
2 States Code."

3 **TITLE V—PERSONNEL AUTHORITIES**
4 **IMPROVEMENTS**

5 **DEFENSE INTELLIGENCE COLLEGE GIFT ACCEPTANCE**
6 **AUTHORITY**

7 **SEC. 501. (a) Chapter 155 of title 10, United States**
8 **Code, is amended by adding at the end thereof the following**
9 **new section:**

10 **"§ 2606. Gifts to support the Defense Intelligence College**

11 **"(a) The Secretary of Defense is authorized to accept,**
12 **hold, administer, and use gifts, to include bequests or devises,**
13 **money, securities, or other property, both real and personal,**
14 **for the purpose of aiding and facilitating the work of the De-**
15 **fense Intelligence College.**

16 **"(b) Gifts of money and proceeds from sales of property**
17 **received as gifts shall be deposited in the Treasury and shall**
18 **be available for disbursement upon the order of the Secre-**
19 **tary.**

20 **"(c) For purposes of Federal income, estate, and gift**
21 **taxation, gifts accepted by the Secretary under this section**
22 **shall be considered to be to or for the use of the United**
23 **States.**

24 **"(d) The Secretary of Defense shall prescribe regula-**
25 **tions to carry out this section."**

1 (b) The table of contents of chapter 155 of title 10,
2 United States Code, is amended by adding at the end thereof
3 the following:

"3806. Gifts to support the Defense Intelligence College."

4 EXTENSION OF DIA EMPLOYEE TERMINATION AUTHORITY

5 SEC. 502. Section 1604(e)(1) of title 10, United States
6 Code, is amended by striking "during fiscal years 1988 and
7 1989."

8 REQUIREMENTS FOR CITIZENSHIP FOR STAFF OF UNITED

9 STATES ARMY RUSSIAN INSTITUTE

10 SEC. 503. (a) For purposes of section 319(c) of the Im-
11 migration and Nationality Act (8 U.S.C. 1430(c)), the United
12 States Army Russian Institute, located in Garmisch, Federal
13 Republic of Germany, shall be considered to be an organiza-
14 tion described in clause (1) of this section.

15 (b) Subsection (a) shall apply with respect to periods of
16 employment before, on, or after the date of the enactment of
17 this Act.

18 PERMANENT SPECIAL TERMINATION AUTHORITY FOR THE

19 SECRETARY OF DEFENSE

20 SEC. 504. Section 1590(e)(1) of title 10, United States
21 Code, is amended by striking, "during fiscal years 1988 and
22 1989,".

23 DEFENSE ATTACHÉ DEATH GRATUITY

24 SEC. 505. (a) During fiscal year 1990, the Secretary of
25 Defense may pay a death gratuity identical to that payable

1 under section 1489(b) of title 10, United States Code, to the
2 surviving dependents of a member of the Armed Forces who,
3 while serving on active duty assigned to a Defense attaché
4 office outside the United States, died as a result of hostile or
5 terrorist activities.

6 (b) The death gratuity referred to in subsection (a) may
7 be paid with respect to an individual who died on or after
8 June 15, 1988.

9 (c) The Secretary of Defense shall submit to Congress
10 no later than March 1, 1990, a report concerning the advis-
11 ability of permanent law permitting the payment of death
12 gratuities to the survivors of any member of the armed serv-
13 ices who, while on active duty assigned to a Defense attaché
14 office outside the United States, dies as a result of hostile or
15 terrorist activities.

16 **TITLE VI—FBI ENHANCED**

17 **COUNTERINTELLIGENCE AUTHORITIES**

18 **ADJUSTMENT TO DEMONSTRATION PROJECT FOR THE NEW**

19 **YORK FIELD DIVISION**

20 **SEC. 601. Subsection 601(a)(2) of the Intelligence Au-**
21 **thorization Act for fiscal year 1989 is amended by deleting**
22 **"who are subject by policy and practice to directed geo-**
23 **graphical transfer or reassignment".**

1 **PERSONNEL CEILING ON UNITED STATES AND SOVIET**
2 **MISSIONS**

3 **SEC. 602.** It is the sense of the Congress that the ceil-
4 ing on permanent positions at the United States Mission to
5 the Soviet Union and the Soviet Mission to the United States
6 should not be increased unless—

7 (a) the National Security Council determines that
8 such increase is essential to the effective functioning of
9 the United States Mission to the Soviet Union; and

10 (b) the FBI is provided sufficient additional re-
11 sources to fulfill its responsibilities resulting from the
12 increased number of permanent positions at the Soviet
13 Mission to the United States.

14 **FBI INVESTIGATIONS OF ESPIONAGE BY PERSONS EM-**
15 **PLOYED BY OR ASSIGNED TO UNITED STATES DIPLO-**
16 **MATIC MISSIONS ABROAD**

17 **SEC. 603.** The FBI shall be responsible for the conduct
18 of all investigations of violations of the espionage laws of the
19 United States by persons employed by or assigned to United
20 States diplomatic missions abroad. All departments and agen-
21 cies shall report immediately to the FBI any information in-
22 dicating such a violation. Other departments and agencies
23 shall provide appropriate assistance to the FBI in the con-
24 duct of such investigations. Nothing in this provision shall be
25 construed as establishing a defense to any criminal, civil, or
26 administrative action.

1 **TITLE VII—GENERAL PROVISIONS**

2 **INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS**

3 **AUTHORIZED BY LAW**

4 **SEC. 701. Appropriations authorized by this Act for**
5 salary, pay, retirement, and other benefits for Federal em-
6 ployees may be increased by such additional or supplemental
7 amounts as may be necessary for increases in such compensa-
8 tion or benefits authorized by law.

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